



MONTANA LEGISLATIVE BRANCH

Legislative Fiscal Division

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Legislative Fiscal Analyst
CLAYTON SCHENCK

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David Niss
Legal Services Division
Legislative Services
Room 128
State Capitol Building
Helena, MT 59620

Dear Mr. Niss:

I have several questions regarding statutes governing administration of the Children's Health Insurance Program (CHIP), several components of the recently signed contract for program administration for the 2005-06 contract year, whether a contract is void if it does not comply with statute, and the meaning of the term "appropriation" in 53-4-1012(3), MCA. Specifically the questions are:

- 1) Does statute require that the amount of CHIP premium paid for administration in excess of administrative costs incurred by a contractor be included in the calculation of surplus account balance as used in 53-4-1007, MCA?
- 2) Is a contract null and void if it does not include a provision specifically implementing 5-13-304(7), MCA?
- 3) Does statute allow the contractor to retain the full amount paid for risk charges included in administrative costs as well as an additional amount equal to 50 percent of the risk charge in the event there is a surplus account balance?
- 4) Are components of Attachment 10 of the CHIP administration contract in compliance with statute if yes is the answer to questions 1 or 2 or if the answer to question 3 is no? Attachment 10 is appended to this letter.
- 5) Is a contract void if it does not comply with statute?
- 6) Does the term "appropriation" as used in 53-4-1012(3), MCA mean any type of appropriation made by the legislature and does the term include appropriations made by budget amendment? If so, does 53-4-1012(3), MCA:
 - a. Take precedence over other appropriation statutes and require that all appropriations for CHIP be funded and expended before other appropriations from the same appropriation source (eg cigarette and tobacco state special revenue)?
 - b. Require that all unexpended appropriation authority (and cash) be deposited into the state special revenue account established by 53-4-1012, MCA?
 - c. Prohibit the transfer of CHIP appropriation authority to other programs as allowed by 17-7-139.MCA?

Thank you for your time and consideration in answering these questions. The Legislative Finance Committee will be considering the most recent CHIP administration contract at its meeting December 6. If it is possible to receive your answers by that time, I would greatly appreciate it.

Sincerely,

Lois Steinbeck
Senior Fiscal Analyst

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